

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Transportation Disadvantaged Program

The Transportation Disadvantaged (TD) Program was created by the Legislature in 1979 and coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens.¹ Today, the TD Program is administered by a 7-member Commission through a decentralized network of state and local organizations, with funding provided by various state agencies for specific client groups. At the local level, coordination of TD services is accomplished through planning agencies, local advisory boards, community transportation coordinators and transportation operators.²

Commission for the Transportation Disadvantaged (the "Commission")

The Legislature created the Commission in 1989 as an independent entity within the Department of Transportation to set state policy for the TD program and oversee statewide implementation.³ The Commission is housed within the Department of Transportation (DOT) for administrative and fiscal accountability purposes only.

Appointments to the Commission are made by the Governor, and the Governor must appoint two members who are persons with disabilities who use the transportation disadvantaged system, and five of the members must have significant experience in the operation of a business.⁴ Current law further requires the Governor, when appointing members with business experience, to select persons who reflect the broad diversity of the business community in the state, as well as the geographical, racial, ethnic, and gender diversity of the state's population. Current law provides for restrictions on appointments for individuals who, currently or within the last five years, have or have had a financial relationship with or represent or have represented as a lobbyist specified TD program providers, coordinators, agencies, boards, or brokers.⁵

In addition to gubernatorial appointed members, the top executive (or a senior management level designee) from each of the following entities serves as an ex officio, nonvoting advisor of the Commission:

- The Department of Transportation;
- The Department of Children and Family Services;
- The Agency for Workforce Innovation;
- The Department of Veterans' Affairs;
- The Department of Elderly Affairs;
- The Agency for Health Care Administration (AHCA);

¹ See 79-180, L.O.F.

² Part I, Chapter 427, F.S.

³ See 89-376, L.O.F.

⁴ s. 20.052, F.S.

⁵ s. 427.012(1)(h)

- The Agency for Persons with Disabilities; and
- A county manager or administrator who is appointed by the Governor.

The Commission is required to meet at least quarterly, or more frequently at the call of the chairperson. Five members of the Commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the Commission.

Funding

The Commission distributes a share of its budgeted funds to local providers, based upon specific criteria, to ensure the availability of efficient and quality transportation services for transportation disadvantaged persons in a cost-effective manner. The Commission also administers the Medicaid Non-Emergency Transportation Program pursuant to a contract with AHCA, and the Transportation Disadvantaged Trust Fund (trust fund). The trust fund receives moneys from a \$1.50 fee on each initial registration and registration renewal of vehicles pursuant to s. 320.03(9), F.S., and revenues as designated by the Legislature. The trust fund subsidizes trips, provides funding for TD eligible persons not otherwise funded, and provides for administrative expenses.⁶

In fiscal year 2006-2007, total funding for TD services in Florida from all sources was \$368 million which included a state appropriation of \$38 million. Not all the funds were expended directly by the Commission which, until 2004, relied on the average \$25 million to \$35 million it received from four statutory program earmarks and special appropriations from the Legislature.

In November, 2004, AHCA executed a memorandum of agreement authorizing the Commission to oversee an additional \$68 million in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.

Coordination of Services at the Statewide Level

The Commission assists communities in establishing coordinated transportation systems, manages contracts and memoranda of agreement, ensures state agencies purchase transportation services from within the TD coordinated system unless a more cost-effective provider outside the coordinated system can be found by the purchasing agency, and approves the local entities that manage the delivery of transportation services to eligible clients. As managers of the Medicaid NET program, the Commission identifies and enters into agreements with “subcontracted transportation providers,” and pays them a monthly lump-sum amount. These subcontracted transportation providers, in turn, pay the local transportation operators actually providing the services.

Coordination of services at the local level

At the local level, the TD program is implemented through a network of planning agencies, local advisory boards, community transportation coordinators (CTCs), and transportation operators. Local planning agencies, such as a metropolitan planning organization (MPO) or regional planning council, appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommend the CTCs to the Commission.

The CTCs are the entities responsible for the actual arrangement or delivery of transportation services within their local service area. A CTC may be a government entity, a transit agency, a private not-for-profit agency or a for-profit company. A CTC may function as a sole-source provider of TD services or it may broker part or all of the trips to transportation operators. The Commission enters into a

⁶ Persons are considered transportation disadvantaged when physical or mental disability, income status, or age make them unable to transport themselves or to purchase transportation. These conditions cause them to rely on others to obtain access to health care, employment, education, shopping, or other life-sustaining activities. Handicapped children or children at-risk or high-risk are also eligible for services under this program. See s. 427.011, F.S.

memorandum of agreement for services with a CTC and the agreement identifies the anticipated service population, service area, information regarding any subcontractors, and rates for services.

Service areas

Florida's 67 counties are divided into 48 TD service areas. While most urban counties are single-county service areas, some rural counties are organized into multi-county service areas. All counties have some level of TD service for their elderly, disabled, or needy residents. According to the Commission's latest annual report, 51.5 million trips were provided to clients in fiscal year 2006-2007, approximately 2 percent fewer than in the previous fiscal year. These trips served 697,159 passengers, and about one-third were to a doctor's office or medical facility. Trips to educational or training facilities rank second.

Effect of Proposed Changes

House Bill 1175 amends each section of law comprising Part 1, Chapter 427, F.S., relating to Special Transportation and Communication Services. Specifically, the bill makes the following amendments to specified sections:

- s. 427.011: (1) Creates the term "purchasing agency" in lieu of "member department. "Purchasing agency" means an agency that purchases transportation services for the transportation disadvantaged or an agency whose head is an ex officio, non-voting "advisor" to the Commission; (2) removes the definition of "annual budget estimate;" and (3) renumbers definitions in s. 427.011, F.S. so that terms are in alphabetical order.
- s. 427.012: Provides that four Commission members constitutes a quorum, rather than the five provided by current law.
- s. 427.013: (1) Removes a provision allowing the Commission to include in its standards for community transportation coordinators, transportation operators, and coordination contractors acceptable ranges of trip costs for various modes and types of transportation provided; (2) requires the Commission to consolidate and report actual expenditures reported by each purchasing agency and each local government and directly federally funded agency; (3) removes a provision providing that quality assurance and management review staff functions independently of the Commission and is under direct control of the executive director of the Commission; and (4) creates a new provision allowing the Commission to incur expenses for marketing and advertising.
- s. 427.0125: (1) Requires each purchasing agency pay the rates established in the service plan unless the purchasing agency has completed an alternative provider procedure and demonstrated that an alternative provider can provide a trip of acceptable quality at a lower price. This change of current law applies to the Medicaid program, which currently has the flexibility to use more cost effective methods of transportation; and (2) requires that each state agency identify in its annual legislative budget request the specific amount of money that the agency will allocate for the provision of transportation disadvantaged services.
- s. 427.015: Requires each local government to annually report to its metropolitan planning organization the actual expenditure of all local and federal funds, which shall then be consolidated and reported to the Commission by September 15 of each year.
- s. 427.0155 and 427.0157: Requires that community transportation coordinators include the results of the Commission-approved rate methodology process in their service plans; and (2) allows coordinators, with the assistance of coordinating boards, to establish eligibility guidelines for recipients of non-sponsored transportation disadvantaged services.
- s. 427.0158: (1) Requires that school boards provide information as requested by the community transportation coordinator; (2) removes provisions requiring school boards to provide the coordinator and coordinated transportation board with specified information regarding vehicles not scheduled for use in transporting students; and (3) requires that public transportation systems provide information requested by the coordinator.
- s. 427.0159: Specifies the use of funds in the Transportation Disadvantaged Trust Fund for non-sponsored transportation disadvantaged services and provides the Commission with the

authority to implement, manage, and administer the purchasing agencies' funds deposited in the trust fund.

- s. 427.016: removes provisions that allow AHCA to establish maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, competitive bidding, or any other mechanism that will provide for the efficient and effective purchase of services for Medicaid clients and requires every agency to identify in its annual legislative budget request the specific amount the agency will allocate for transportation disadvantaged services.

Additionally, the bill makes a number of conforming and technical changes throughout Part I of Chapter 427, including clarifying in s. 427.017, F.S. that state agencies can take necessary steps to assure federal funding should any agency of the federal government notify the state agency that provisions in "this part" conflict with federal law.

The effective date of the bill is July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends s. 427.011, F.S.; relating to definitions.

Section 2. Amends s. 427.012, F.S.; relating to the creation of the Commission for the Transportation Disadvantaged.

Section 3. Amends s. 427.013, F.S.; relating to the Commission for the Transportation Disadvantaged.

Section 4. Amends s. 427.0135, F.S.; relating to member departments; duties and responsibilities.

Section 5. Amends s. 427.015, F.S.; relating to function of the Metropolitan planning organization or designated official planning agency in coordinating transportation for the transportation disadvantaged.

Section 6. Amends s. 427.0155, F.S.; relating to community transportation coordinators; powers and duties.

Section 7. Amends s. 427.0157, F.S.; relating to coordinating boards; powers and duties.

Section 8. Amends s. 427.0158, F.S.; relating to school bus and public transportation.

Section 9. Amends s. 427.0159, F.S.; relating to Transportation Disadvantaged Trust Fund.

Section 10. Amends s. 427.016, F.S.; relating to expenditure of local government, state, and federal funds for transportation disadvantaged.

Section 11. Amends s. 427.017, F.S.; relating to conflicts with federal laws or regulations.

Section 12. Providing an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments will be impacted to the extent that they will pay the rates established in the service plan unless the requirements for alternative providers are met.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES